



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government— HB 1049 CS provides for an additional sanction for any person who sells, gives, serves or permits to be served alcoholic beverages to a person under age 21 or permits a person under 21 to consume alcoholic beverages on the licensed premises. The bill exempts licensees under the Beverage Law, Chapter 561, F.S., and their employees or agents from this additional sanction.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Chapter 322, F.S., relates to the administration of driver's licenses by the DHSMV. Section 322.28, F.S., sets forth the provisions related to suspension or revocation of driver's licenses. A driver's license may be suspended or revoked for various traffic safety related reasons, such as for having a certain number of points for speeding violations or for driving under the influence. A license can also be suspended or revoked for numerous reasons that are not directly related to operating a motor vehicle. Examples include: nonpayment of a criminal case financial obligation, s. 322.245, F.S.; noncompliance with paternity proceeding orders, s. 61.13016, F.S.; not meeting school attendance requirements, ss. 322.091 and 1003.27, F.S.; and passing worthless checks, ss. 322.251 and 832.09, F.S. In addition, a minor's license can be suspended for possession of an alcoholic beverage, ss. 397.251(2)(i) and 562.111(3), F.S.

Section 322.271, F.S., provides that the DHSMV may, in certain circumstances, issue a driver's license restricted to business or employment purposes only to a person who is otherwise qualified for a license and whose license has been suspended or revoked.

Section 562.11(1)(a), F.S., makes it unlawful for any person to sell, give, serve or permit to be served alcoholic beverages to a person under 21 years of age or to permit a person under 21 years of age to consume alcoholic beverages on the licensed premises. A person convicted of a violation of this provision is guilty of a criminal misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed \$500. Under the Beverage Law, Chapter 561, F.S., "licensed premises" is defined to mean "not only rooms where alcoholic beverages are stored or sold by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control..."<sup>1</sup> Under that same Chapter, "licensee" is defined to mean "a legal or business entity, person, or persons that hold a license issued by the division (i.e., Division of Alcoholic Beverages and Tobacco)."<sup>2</sup>

##### Proposed Changes

HB 1049 CS requires the court to order DHSMV to withhold the issuance of, or suspend or revoke the driver's license of, any person who sells, gives, serves or permits to be served alcoholic beverages to a person under age 21 or to permit a person under 21 to consume alcoholic beverages on the licensed premises. The bill exempts licensees under the Beverage Law, Chapter 561, F.S., and their employees or agents from this additional sanction.

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<sup>1</sup> Fla. Stat. 561.01(11) (2005).

<sup>2</sup> Fla. Stat. 561.01(14) (2005).

Under the bill, the period in which the driver's license would be withheld, suspended or revoked would be between 3 and 6 months for the first violation and one year for any subsequent violation. The bill would permit the court to order the DHSMV to issue a driver's license restricted to business or employment purposes, if the person otherwise qualifies for a driver's license.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 562.11, F.S., providing for an additional sanction for any person who sells, gives, serves or permits to be served alcoholic beverages to a person under age 21 or permits a person under 21 to consume alcoholic beverages on the licensed premises. The bill exempts licensees under the Beverage Law, Chapter 561, F.S., and their employees or agents from this additional sanction.

**Section 2.** Creates s. 322.057, F.S., to provide that the period in which the driver's license would be withheld, suspended or revoked would be between 3 and 6 months for the first violation and one year for any subsequent violation. The bill would permit the court to order the DHSMV to issue a driver's license restricted to business or employment purposes, if the person otherwise qualifies for a driver's license

**Section 3.** Provides that the bill takes effect July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the DHSMV, this bill may generate additional revenue as a result of reinstating the driving privileges of persons suspended or revoked pursuant to this bill. However, the number of individuals to be suspended and the amount of revenue to be collected is indeterminate. Additionally, the DHSMV will incur an indeterminate amount of administrative expense in managing the withholding, suspension, and revocation of driver's licenses. DHSMV also believes this bill will require programming modifications to driver license software systems that will be absorbed as part of the normal workload.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Judiciary Committee amended the Transportation Committee CS to clarify that the licensee to which the CS refers is a licensee under the beverage law and not a person having a driver's license. The bill was then reported out favorably as a committee substitute.

On March 14, 2006, the Transportation Committee amended HB 1049 to make minor grammatical corrections. The committee then voted 13-2 to report the bill favorably with committee substitute.